

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BOROUGH OF UPPER SADDLE RIVER,
KAREN MILLER, ROY OSTROM, MARIA FLORIO,
MARK RUFFOLO AND LINDA MCDONALD,

07-CV-0109

Plaintiffs,

-against-

VILLAGE OF AIRMONT, ROCKLAND COUNTY
SEWER DISTRICT #1,

Defendants.

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**PLAINTIFFS' COUNTER
STATEMENT PURSUANT
TO LOCAL RULE 56.1(b)
IN OPPOSITION TO
DEFENDANT VILLAGE
OF AIRMONT'S MOTION
FOR SUMMARY
JUDGMENT**

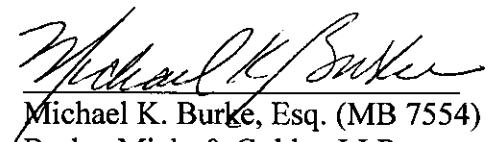
The Plaintiffs, the Borough of Upper Saddle River, Karen Miller, Roy Ostrom, Maria Florio, Mark Ruffolo, and Linda McDonald, by their attorneys, Burke, Miele & Golden, LLP, as and for their Counter Statement pursuant to Rule 56.1 in opposition to Defendant Village of Airmont's Motion for Summary Judgment, assert the following are material facts over which there exists no genuine issue.

1. In Plaintiffs' Amended Complaint, Plaintiffs have alleged that the Village is "a municipal corporation organized for the purpose of exercising the duties and prerogatives of local government and the administration of public affairs which have been conferred upon them by the laws of the State of New York." (Exhibit "C", ¶ 15).
2. It was further alleged that the Village, upon information and belief, has the "authority to provide sewer services to its residents and to approve sewer use fees and connections to

the District to fund the operation and maintenance of the sewer system and to ensure compliance with applicable laws and regulations.” *Id.*

3. In its Statement of Facts and Memorandum of Law, the Village refers to the Affidavit of Mayor John C. Layne to establish that it has no authority or responsibility to approve sewer connections and that it does not own, operate, manage, direct or otherwise supervise the District. *See*, Village of Airmont, Memorandum of Law and Statement of Facts, ¶ 4. However, the Affidavit states that the facility discharging the pollutants is “owned, operated, managed, directed, supervised and controlled by Rockland County Sewer District #1” and is absolutely silent on the Village’s authority and responsibility to approve sewer connections or payment of fees for said services. *See*, Affidavit of John C. Layne.

Dated: May 9, 2007
Goshen, New York



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